REMARKS

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested. Claims 1-53 are pending.

Rejection of Claims 1-4, 6-7, 9-17, 19-20, 22-30, 33-39, 41-48 and 50-53 Under 35 U.S.C. §103(a)

The Office Action rejects claims 1-4, 6-7, 9-17, 19-20, 22-30, 33-39, 41-48 and 50-53 under 35 U.S.C. §103(a) as being unpatentable over Goetz et al. (U.S. Patent No. 5,928,330) ("Goetz et al.") in view of Shaw et al. (U.S. Patent No. 6,233,590) ("Shaw et al."). Applicant respectfully traverses this rejection and submits that for a number of reasons the combination of Goetz et al. and Shaw et al. fail to prevent the patentability of claims 1-4, 6-7, 9-17, 19-20, 22-30, 33-39, 41-48 and 50-53.

First, Applicant respectfully submits that Shaw et al. is non-analogous art to the present invention. For example, claim 1 recites a computer readable medium storing instructions adapted to be executed on a processor to display, at a receiver, received data, analyze, at the receiver, parameters associated with the quality of the displayed data, formulate, at the receiver and based on the analysis above, a media-parameter suggestion for an encoder to alter the characteristics of data to be sent to the receiver, and send, from the receiver, the formulated suggestion. Clearly, operations occur as is recited in claim 1 by a receiver. In contrast, Shaw et al. teach a document-instruction-set-computing architecture (DISC) that offers a new computing discipline optimized for real time data manipulation and interpretation for a compound document related applications. In their Summary of the Invention, they teach that it is a distinguishable feature from all prior art which have adapted the traditional CISC or RISC architectural discipline which are best optimized for real time data computation. DISC provides new methods and apparatus to organize, store, retrieve, update and present a plurality of compound document

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data types. As can be seen throughout the Summary of the Invention in columns 3 and 4, it is clear that the focus of the invention taught in Shaw et al. is an integrated circuit system according to a novel DISC principle. Because it is related more to a baseline DISC single chip integrated circuit on a server, Applicant would respectfully submit that it is non-analogous to the invention of claim 1 which is clearly related to how to deal with a displayed data at a receiver.

An example of analogy of analogous in the electrical arts is found in MPEP 2141.01, Section V, in which the Wang Laboratoires Inc. case is analyzed. In that case, patent claims were directed to single inline memory modules (SIMMs) for instillation on a printed circuit motherboard for use in personal computers. The cited reference referred to a SIMM for an industrial controller that the Federal Circuit found was not necessarily in the same field of endeavor as the claimed subject matter merely because it related to memories. The reference was found by the Federal Circuit to be in a different field of endeavor because it involved memory circuits in which modules of varying sizes may be added or replaced, whereas the claimed invention involved compact modular memories. For these and other reasons, the Court found that the reference was non-analogous which was supported by substantial evidence.

Similarly, the argument that Shaw et al. fail to be analogous art to claim 1 is even stronger than in Wang Laboratories because in that case at least the claimed invention and the prior art reference both related to memory and specifically SIMMs. However, claim 1 clearly requires many operations at a receiver and recites steps involving analyzed parameters associated with the quality of displayed data, formulating a media-parameter suggestion for an encoder to alter the characteristics of data to send to the receiver, and sending, from the receiver, the formulated suggestion. There is no requirement within claim 1 of any specific kind of processor on the receiver and clearly claim 1 does not include any server related limitations. In contrast to claim 1, it is clear as discussed above, that Shaw et al. teach a new DISC type of computer

processor architecture that is adapted from traditional CISC or RISC architectures, which are

certain types of central processing units that are optimized for various purposes. Applicant

respectfully submits that there is substantial evidence supporting Applicant's argument that

Shaw et al. is a non-analogous to the present invention. Accordingly, Applicant respectfully

submits that Shaw et al. is inappropriately cited against the present invention.

Furthermore, because of the field of invention and focus of Shaw et al. is to the DISC

single chip integrated circuit, Applicant respectfully submits that one of skill in the art would not

have sufficient motivation to combine Shaw et al. with Goetz et al. These two references are

non-analogous to each other. Goetz et al. teach a system and device for presenting multi-media

information in a client-server context and their invention includes a client that receives units of

multi-media information and presents the information on a presentation device. As is introduced

in their background in column 1, line 21, Goetz et al. relate to a real time multi-media application

and more particularly to the streaming of real time multi-media information over a

communication network. Where Applicant only needs to meet a preponderance of the evidence

standard, Applicant respectfully submit that when the overall teachings and suggestive power of

Shaw et al. and Goetz et al. are objectively analyzed, that one of skill in the art would not review

the Goetz et al. reference, come to an understanding that its subject matter focuses on an

invention related to real time multi-media applications and the streaming of real time multi-

media information over a communication network, and then have any kind of motivation or

suggestion to seek out a particular computer processor that has an improvement over the CISC or

RISC processing techniques and specifically relates to the document instruction set computing

principle disclosed in Shaw et al.

Even the figure on the cover of Shaw et al. further limits any suggestion that Shaw et al.

should be combined with Goetz et al. For example, the figure shown on the cover, which is

Figure 1 of the Shaw et al. patent, shows the document instruction set computing device in the center which communicates with various other devices which include a copier 156, a printer 154 and a scanner 158. Other devices include a telephone 104 and a fax 110. In a multiple user and multiple application environment, one of skill in the art would certainly understand that multi-media information such as streaming video as is identified at the beginning from the title of Goetz et al. would not be sent to a scanner, a printer, a copier or a telephone or a fax inasmuch as these kinds of devices are not adapted to receive and display a streaming multi-media file. In any event, this is an additional feature within the teachings of Shaw et al. that urge away from any suggestion or motivation to combine these references in addition to the fundamental problem with Shaw et al. which is its focus on a computer processor DISC architecture which is not analogous and likely irrelevant to the teachings of Goetz et al.

The Office Action on page 4 argues in a single sentence the case for the motivation or suggestion to combine by stating that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goetz's system with Shaw's teaching technique of requesting and/or suggesting the quality display of presentation data. Applicant notes that page 4 asserts that the suggestion for modifying the display comes from the user and is collected from the application and the user. The Office Action asserts that this is taught in Shaw et al. at column 11, lines 45-63. However, Applicant respectfully submits that what is taught in this portion of Shaw et al. has nothing to do with the display quality. This portion of Shaw et al. in column 11 relates to a smart memory circuit which is comprised of a single or plurality object stack (OSTACK) connected to the forms scope controller (scope 244) circuit which, when activated, receives a single or plurality hierarchy of scope content signal corresponding to selective subject of interest at each level and further selected detail subject of interest at the subsequent level, the OSTACK is also comprised of input interface circuit connected to OIF 224

circuit which when activated receives selective recommendation from application, user and/or network and further produces a single or a plurality list of subject pointer signals that is further comprised of level index field, subject index field, an identifier field wherein said level index field corresponds to the selected number of hierarchy level, the subject index field corresponding to the selected number within the level of hierarchy, and the identified field connected to a decoder further correspond to the coded name of the selected subject of interest. Applicant respectfully submits that to interpret that paragraph as corresponding to the claim limitation of formulating at the receiver and based on a previous analysis a media-parameter suggestion for an encoder to alter the characteristics of data sent to the receiver the parameters associated with the quality of the display data is simply too much of a stretch. There is simply no mention in this paragraph of the display quality and complicated other technical data that clearly focuses the attention of a reader towards the SMART integrated circuit and its operation rather than anything to do with the display.

The Office Action on page 4 also asserts that the system controller in Shaw et al. oversees the adjustment and/or change of parameters including frame rate and display resolution based on the user's system performance and/or user preference changes, citing column 17, line 40 to column 18, line 30. Applicant respectfully asserts that this portion of Shaw et al. fail to teach anything regarding adjusting such parameters and display resolution based on the user's system performance and/or user preference changes (which is language different from the language of claim 1 but used in the Office Action). What is taught in column 17 is that there is an interface circuit connected to PREP 202 which receives a differential frame bit-map signal corresponding to the specific input data types, the SLUT 232 (table) cross-references the signal and produces a set of run-time parameters including a compression ratio, frame rate, and display resolution. Accordingly, rather than teaching the invention of claim 1, Shaw et al. teach using

the PREP 202 circuit receiving a differential frame bit-map signal corresponding to the specific input data types and then cross-referencing using a look up table the signal and producing a set of run-time parameters. There is simply no mention in contrast to the assertion on page 4 of the Office Action, of establishing a compression ratio, frame rate or display resolution based on the user's system, performance and/or user preference changes or the limitations recited in the claim.

In sum, Applicant respectfully submits that Shaw et al. is not an analogous art. Furthermore, one of skill in the art would not by a preponderance of the evidence have sufficient motivation to combine the multi-media streaming application of Goetz et al. with the DISC computer processor invention of Shaw et al. And furthermore, even if it were appropriate to combine these references, the combination of references still fails to teach each limitation of claim 1. Accordingly, Applicant respectfully submits that claim 1 is patentable and in condition for allowance.

Claims 2-4 each depend from claim 1 and recite further limitations therefrom. Therefore, they are patentable as well. Claims 6 and 7 each depend from claim 1 and recite further limitation therefrom and are accordingly patentable and in condition for allowance. Claims 9-13 each depend from claim 1 and recite further limitations therefrom and are patentable. Claim 14 recites a method of transmitting data from a sender to a receiver across the network. The method comprises limitations similar to the ones discussed above relative to claim 1. Accordingly, Applicant respectfully submits that claim 14 is patentable as well as dependent claims 15-17, 19-20 and 22-26.

Claim 27 recites a method for transmitting data across a network, the steps in claim 27 are similar to those recited in claim 1 and discussed above. These limitations includes a step of receiving from the sender a suggestion to alter future transmitted data on the basis of a quality of data transmitted to the receiver and selecting based on the received suggestion and action to alter

the data and altering the future transmitted data. Applicant respectfully submits that for the numerous reasons set forth above, claim 27 is patentable as well as dependent claims 28-30. Claims 33-35 depend from claim 27 and recite further limitation therefrom and are accordingly patentable. Claim 36 recites an apparatus for transmitting data from a sender to a receiver across the network. Based on the same reasons set forth above, Applicant respectfully submits that claim 36 is patentable as well as dependent claims 37-39 and claims 41-45. Claim 46 recites an apparatus for transmitting data from a sender to a receiver. Based on the discussion above Applicant also respectfully submit that claim 46 is patentable as well as dependent claims 47-48 and 50-53.

Rejection of Claims 5 and 18 Under 35 U.S.C. §103(a)

The Office Action rejects claims 5 and 18 under 35 U.S.C. §103(a) as being unpatentable over Goetz et al. in view of Shaw et al. and Pocock (U.S. Patent No. 5,014,125) ("Pocock"). Applicant respectfully traverses this rejection and submits that inasmuch as Shaw et al. is non-analogous art, one of skill in the art would not have sufficient motivation or suggestion to combine Shaw et al. with Goetz et al.

Furthermore, Applicant respectfully submits that one of skill in the art would not have sufficient motivation to combine Pocock with Shaw et al. and Goetz et al. As is discussed above, Shaw et al. relates to a DISC processor and Goetz et al. relates to streaming of multi-media data. Pocock teaches a television system for the interactive distribution of selectable video presentations. One of skill in the art would easily recognize that this relates to a cable distribution system. It is an entirely different international and U.S. class with different fields of search from Shaw et al. Given that the suggestive power of Pocock and Shaw et al. and how their technologies do not blend, Applicant respectfully submits that by a preponderance of the

evidence, one of skill in the art would not have sufficient motivation or suggestion to combine Pocock with Shaw et al.

Applicant respectfully submits that claims 5 and 18 are patentable and in condition for allowance.

Rejection of Claims 8, 21, 31, 40 and 49 Under 35 U.S.C. §103(a)

The Office Action rejects claims 8, 21, 31, 40 and 49 under 35 U.S.C. §103(a) as being unpatentable over Goetz et al. in view of Shaw et al. and Volk et al. (U.S. Patent No. 5,673,401) ("Volk et al."). Applicant respectfully traverses this rejection and submits that because Shaw et al. is non-analogous art and one of skill in the art would not have sufficient motivation or suggestion to combine Shaw et al. with Goetz et al.

Furthermore, Applicant respectfully submits that one of skill in the art would not have sufficient motivation to combine Volk et al. with Shaw et al. These references are from different U.S. classifications and International classifications. Volk et al. relate to a system and method for customizing sprite-based graphical user interface. In the abstract, they teach an object-oriented system for generating and displaying control items that allow users of an interactive network to recognize and select control functions via a graphical user interface. As amply discussed above, Shaw et al. relate to a DISC architecture for a processor that is a modification of a CISC or RISC type processors. Again, Applicant would submit that these arts are non-analogous to each other and that on of skill in the art would have insufficient suggestion and motivation to combine Volk et al. with Shaw et al.

Applicant respectfully submits that claims 8, 21, 31, 40 and 49 are patentable and in condition for allowance.

CONCLUSION

Having addressed all rejections and objections, Applicant respectfully submits that the

subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

If necessary, the Commissioner for Patents is authorized to charge or credit the **Law Office of**

Thomas M. Isaacson, LLC, Account No. 50-2960 for any deficiency or overpayment.

Respectfully submitted,

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By: _____

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